IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 13210 of 1993

For Approval and Signature:

HON'BLE MR.JUSTICE D.H.WAGHELA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

GUJ WATER RESOURCES DEVE CORPNTECH OPERATOR WORKERS UNION

Versus

MANAGING DIRECTOR

Appearance:

1. Special Civil Application No. 13210 of 1993

MR YN OZA for Petitioner No. 1

MR PARESH UPADHYAY for Respondent No. 1

NOTICE SERVED for Respondent No. 2

CORAM : HON'BLE MR.JUSTICE D.H.WAGHELA

Date of decision: 06/04/2004

ORAL JUDGEMENT

#. None present for the parties. This petition under Article 226 of the Constitution prays for a direction to

the respondents not to give tube-wells on lease or on rent or to dispose off or transfer such wells and to regularise the services of the members of the petitioner-Union, and not to terminate their services. The petition is purported to have been filed by the Union of the workers working as Technical Operators in the Gujarat Water Resources Development Corporation and it appears to have been filed under the apprehension that the members of the petitioner-Union were likely to be discharged on account of the tube-wells being given away on rent or on lease basis by the respondent.

#. The Company Secretary of the respondent no. 1 Corporation has, by filing affidavit-in-reply dated 2.5.94, opposed the petition mainly on the grounds that the petitioner-Union is not recognized by the respondent-Corporation and it has no locus standi to file the petition; that no legal or fundamental right of any of the Operators of the petitioner-Union is infringed or violated; that extraordinary jurisdiction under Article 226 of the Constitution cannot be availed for regularisation of services; that the petitioner and its members have alternative and more efficacious remedy by way of raising an industrial dispute and that the matter involves various disputed questions fact. It is also stated on oath that the grievance of the petitioner against the apprehended termination of service of its so-called members is thoroughly misconceived. It is stated that as and when the services of any of the Operators in the respondent-Corporation are required to be terminated, that will be done in accordance with law. It is further stated that the Corporation was constrained to approach the appropriate government for permission to reduce the strength of Operators, but the permission for retrenchment was refused by the government.

#. The petition was admitted on 5.5.94 and interim relief in terms of para-15[e] of the petition was confirmed and modified with the effect that the service of the members of the petitioner-Union could not be terminated except in accordance with the provisions of the Industrial Disputes Act, 1947.

#. In view of the above facts, it is apparent that, as far as the main grievance and apprehension of the petitioner are concerned, the statements on oath of the respondent and the interim order of this Court have protected the workmen against illegal termination of service. It also goes without saying that even without interim order of this Court, the respondent could not terminate the services of its workmen except in

accordance with law. As for the other grievances and prayers, the petitioners would have efficacious alternative remedies which they could avail if they are not already availed. Thus, in short, the petition has become infructuous and accordingly disposed off as such. Rule is discharged with no order as to costs. Interim relief stands vacated.

[D.H. WAGHELA, J.]

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